

Remarks

The Final Office Action dated October 26, 2011, presents the following claim rejections: claims 1-8 and 10-18 stand rejected under 35 U.S.C. § 103(a) over Joseph *et al.* (U.S. Patent No. 6,993,645) in view of Krishnamoorthy *et al.* (U.S. Patent No. 5,790,753); claim 17 stands rejected under 35 U.S.C. § 103(a) over the '645 reference in view of the '753 reference and further in view of Hadi (U.S. Patent No. 7,233,999); claim 9 stands rejected under 35 U.S.C. § 103(a) over the '645 reference in view of the '753 reference and further in view of Perlman *et al.* (U.S. Patent No. 7,200,859); and claim 19 stands rejected under 35 U.S.C. § 103(a) over the '645 reference in view of the '753 reference and further in view of Worley (U.S. Patent No. 7,509,639). In the following discussion, Applicant traverses all of the rejections and, unless explicitly stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Advisory Action or the Office Action(s) of record.

Applicant maintains the traversal of each rejection based upon the previously-provided arguments, which have neither been overcome nor fully addressed in the Final Office Action. Applicant appreciates the Examiner's response to arguments and the associated clarifications as to the basis for the rejections. Applicant submits that these clarifications support Applicant's arguments (*e.g.*, including those arguments that were directed toward a lack of correspondence to a user device that retrieves multimedia content from a third party device while the user device is booting.) As correctly cited by the Examiner, the '645 reference teaches that during "POST" data for display is "retrieved from a persistent storage medium location," not from a third party device (Final Office Action, pp. 12-13 (citing to the '645 reference). Moreover, updates to the data in the persistent storage medium are taught to be made "[f]ollowing the completion of the POST and the loading of the operating system into memory" (Id). These cited portions do not teach or suggest that data is retrieved from a third party device during POST. Accordingly, the Examiner's citations support Applicant's arguments.

Applicant also maintains that the secondary '753 reference also fails to teach correspondence to various aspects of the claim limitations and notes that the Examiner has not addressed Applicant's showing of the same in the previous response. Accordingly, the lack of correspondence to such aspects in the secondary '753 reference

has not been disputed. Applicant maintains these arguments to the extent that the basis for the rejection might shift in the future, but has not reproduced them in this response for the sake of brevity.

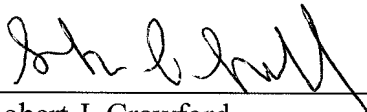
Moreover, the Examiner does not provide a clearly articulated reason for the combination. Rather than address Applicant's arguments, the Examiner has only concluded that the cited references are in a related "field." Regardless of whether or not there might be a related field, there is no clearly articulated reason for making a combination. The Examiner has therefore not complied with the requirements for an obviousness rejection, as highlighted by the failure to address Applicant's arguments regarding the insufficiencies of the Examiner's alleged reason for the combination. *See, e.g., KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (U.S. 2007) ("A patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art."). "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006) cited with approval in KSR). The previous Office Action alleged that the combination is obvious "because of the advantage of immediate tailored updates (Joseph [the '645 reference], col. 6, lines 63-67)" (p. 3 of the previous Office Action). This advantage or suggestion does not appear to be present in the '645 reference. The rejection appears to generally state that the combination would "improve" the system, but does not identify a problem that the combination is directed to address. Unless one skilled in the art would understand the alleged problem to be present in the '645 reference, there would be no motivation to combine the teachings in order to solve the unrecognized/non-existent problem. As a result, the rejection is improper and should be removed.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the attorney overseeing the application file, Juergen Krause-Polstorff of NXP Corporation at (408) 518-5537 (or the undersigned).

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